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OFFICE OF PETITIONS

In re Application of :
Ulrich Bonne :
Application No. 10/672,483 :
Filed: 26 September, 2003 :
Atty Dkt No. H0006099(1100.1239101) :

ON PETITION

This is a decision on the petition filed on 23 September, 2004, requesting that the above-identified application be accorded a filing date of 26 September, 2003, with Figure 4 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 26 September, 2003.

Accordingly, on 31 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that, *inter alia*, the application had been accorded a filing date of 26 September, 2003, but that Figure 4 described in the specification appeared to have been omitted. An oath or declaration, a surcharge for its late filing, and replacement drawings were also required.

In response, on 23 September, 2004, the present petition and one (1) sheet of drawings containing Figure 4 described in the specification was filed, along with a declaration, surcharge, and replacement drawings.

Petitioner argues that the sheet of drawings containing Figure 4 was filed with the other application papers on 26 September, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 09/26/03, the above-identified application number, and identifies the application by the inventor's name, attorney docket number, and

invention title, and acknowledges receipt of, *inter alia*, "24 sheets informal drawings". Petitioner requests that the application, including one (1) sheet of drawings containing Figure 4 described in the specification, be accorded a filing date of 26 September, 2003.

A review of the record reveals that no sheet of drawings containing Figure 4 described in the specification has been located among the application papers received on 26 September, 2003. However, the evidence is convincing that the application papers deposited on 26 September, 2003, included 24 sheets of drawings, one of which included Figure 4 described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 4 described in the specification, is entitled to a filing date of 26 September, 2003.

The "Notice" mailed on 31 August, 2004, is vacated to the extent that it states that Figure 4 appears to be omitted from the application.

In view of the above, the petition is granted. The petition fee of \$130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-0413.

The application will be processed with the one (1) sheet of drawings containing Figure 4 supplied with the present petition, as a part of the original disclosure.

Receipt is acknowledged of the replacement drawings filed on 23 September, 2004. The replacement drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 26 September, 2003, using the application papers filed on that date, and the one (1) sheet of drawings containing Figure 4 supplied with the present petition, and an indication in Office records that 24 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 571-272-3231.

A handwritten signature in black ink, appearing to read "D Wood", is positioned above the printed name.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: CROMPTON, SEAGER & TUFTE, LLC
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